



4

PATENT
Attorney Docket No.: DIVER1180-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robertson, et al. Group Art Unit: 1652
Application No.: 09/903,410 Examiner: Not assigned
Filed: July 9, 2001
Title: ENZYME HAVING ESTERASE ACTIVITY AND METHODS OF USE
THEREOF

BOX: MISSING PARTS

Assistant Commissioner of Patents
Washington, D.C. 20231

PETITION REQUESTING DECLARATION OF AN INVENTOR
AS UNAVAILABLE UNDER 37 C.F.R. § 1.47 (a)

Sir:

This petition is respectfully submitted in response to the Notice of Missing Parts mailed August 8, 2001 to request a declaration of unavailability of co-inventor Anna Kosmatka.

By this petition, it is stated that co-inventor Anna Kosmatka is unavailable for signing the inventor declaration in the present application. Due to Ms. Kosmatka's unavailable status, it is respectfully requested that the prosecution of U.S. Application No.: 09/903,410 be allowed to proceed without Ms. Kosmatka's signature.

I, Lisa Haile, hereby declare as follows:

Assignee Diversa Corporation has been unable to contact Ms. Kosmatka regarding the Notice of Missing Parts and the corresponding Declaration in the above application. Accordingly, Diversa

RECEIVED

FEB 26 2002

12/26/2001 NM0HANN1 00000028 09903410

06 FC:122

130.00 OP

OFFICE OF PETITIONS

CERTIFICATION UNDER 37 CFR § 1.8
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date Dec 10, 2001, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231
_____Stephanie Sharrett (Name of person mailing)
Signature _____ Stephanie Sharrett

In re Application of:
Robertson, et al.
Application No.: 09/903,410
Filed: July 10, 2001
Page 2

PATENT
Attorney Docket No.: DIVER1180-2

Corporation has been unable to obtain Ms. Kosmatka's signature. The unavailability of co-inventor Anna Kosmatka is shown by the following facts and Exhibits A-F:

- 1) Ms. Kosmatka's last known address is:

482 Pebble Hill Road
Doylestown, PA 18901-3130

(See Exhibit A, a note of unknown date, received by Diversa Corporation from Anna Kosmatka.)

- 2) On October 19, 2001, we sent a letter to Anna Kosmatka by certified mail with a Request for Return Receipt after Mailing. (See Exhibit B, a copy of the returned envelope.) The letter was sent to co-inventor Anna Kosmatka at her last known address, as set forth above, in order to obtain her signature on the declaration in the present application.
- 3) The United States Post Office attempted to deliver the certified letter, and returned the letter to our offices. The designation on the outside of the envelope stated "Not deliverable as addressed, unable to forward." The envelope also had the handwritten note, "MLNA," which, according to an agent in a December 7, 2001 phone call to the United States Postal Service, is a carrier abbreviation for "Moved, Left No Forwarding Address." The United States Post Office returned the letter to Gray, Cary, Ware and Freidenrich as unclaimed.
- 4) This letter was in addition to multiple attempts by Diversa Corporation to contact Ms. Kosmatka. None of these attempts have been successful in reaching Ms. Kosmatka to obtain her signature. (See Exhibit C, a fax cover sheet sent by Diversa Corporation on August 1, 2001. No response was received.)
- 5) In addition to an attempt to contact Ms. Kosmatka by mail, Stephanie Sharrett of this office attempted to reach Ms. Kosmatka at her last known phone number, 215-348-9395. Upon discovering

In re Application of:
Robertson, et al.
Application No.: 09/903,410
Filed: July 10, 2001
Page 3

PATENT
Attorney Docket No.: DIVER1180-2

that this number appeared to be a fax number, Ms. Sharrett sent a fax copy of the declaration to be signed. (See Exhibit D.) Again, no response was received.

6) In another attempt to locate and contact Ms. Kosmatka, multiple internet searches were performed. The results of the searches, using various search engines, are attached as Exhibit E. As can be seen from the results, no phone number, e-mail address or physical address was found, either in Pennsylvania, or Nationwide.

7) In a different internet search, a reverse lookup technique was used, where the last known phone number and address were used to look up the resident. The results may be seen in Exhibit F. The reverse phone number lookup resulted in a showing of the phone number being for a "Mary Kosmatka." The reverse address lookup yielded no results.

As such, it is set forth that Ms. Kosmatka is an unavailable inventor under 37 C.F.R. § 1.47 and 35 U.S.C. 118. Accordingly, this petition will serve as a statement of the proof of her unavailability. In order to be fully responsive to the Notice of Missing Parts mailed August 8, 2001 and to advance prosecution, this petition is filed with a declaration signed by all inventors other than Ms. Kosmatka, leaving the signature block for Ms. Kosmatka blank.

In re Application of:
Robertson, et al.
Application No.: 09/903,410
Filed: July 10, 2001
Page 4

PATENT
Attorney Docket No.: DIVER1180-2

The required fee under 37 C.F.R. §1.17(h) of \$130.00 accompanies this petition. If the amount of this fee is incorrect, the Commissioner is hereby authorized to charge the amount of this fee, or credit any overpayments, to Deposit Account No.: 50-1355.

Respectfully submitted,

Date: 12/10/01



Lisa A. Haile, Ph.D.
Registration No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133

USPTO Customer Number 28213